

2021 MAY 4 P. 11:45
IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

JEFFREY M. MIZE,

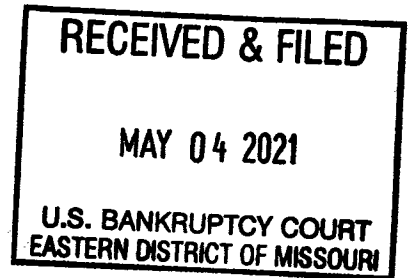
Plaintiff,

vs.

ROBERT C. DRACE,

Defendant.

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) Case No. 21-04013-169
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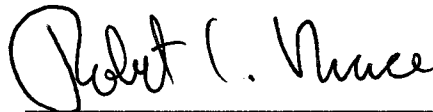
MOTION TO DISMISS ADVERSARY COMPLAINT

COMES NOW Defendant Robert C. Drace, pursuant to Rule 7012 of the Federal Rules of Bankruptcy Procedure and Rule 12(b)(6) of the Federal Rules of Civil Procedure and for his Motion to Dismiss states:

1. The underlying case has been dismissed by this Court on May 3, 2021.
2. As a general rule, dismissal of the bankruptcy proceeding results in dismissal of related proceedings. In re: Morris, 950 F.2d 1531, 1534-35 (11th Cir. 1992).
3. This Court may (within its discretion,) retain jurisdiction over an adversary proceeding if the matter is consistent with the principals of pending jurisdiction. Celotex Corp. v. Edwards, 514 US 300, 307, 115 S. Ct. 1493, 131 L. Ed. 2d 403 (1995).
4. That generally matters the Court retains jurisdiction over "typically involve retention for the purpose of vindicating the Court's own authority and to enforce its own orders." Norwood v. Select Portfolio Servicing, Inc., (In re: Norwood) 2008 WL 660071, at 1 (Bankr. E.D. Tenn. March 10, 2008) (Citing In re: Burgner, 218 B.R. at 414; In re: Skaggs, 183 B.R. 129, 131 (Bankr. E.D. Ky. 1998).

5. If this Court decides to retain jurisdiction, then the complaint should be dismissed for failure to comply with the Federal Rules of Bankruptcy and Civil Procedure because the complaint fails to set forth any facts in a precise and concise manner. In fact, the complaint is filled with argument and conclusions of law instead of the required concise statements of facts as required under Federal Rules of Civil Procedure 8(a) and as made applicable by Federal Rules of Bankruptcy Procedure 7008(a). As such, other than a general denial, Defendant cannot answer the complaint as written and it fails to state a claim upon which relief can be granted.

WHEREFORE, Defendant prays this Court dismiss Plaintiff's Complaint at Plaintiff's costs.

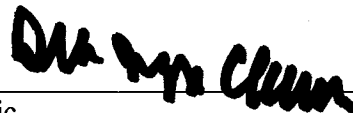


ROBERT DRACE

Movant

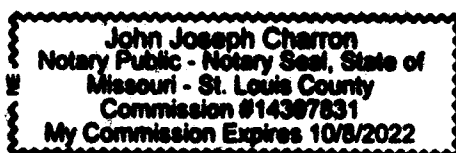
STATE OF MISSOURI)
) ss.
COUNTY OF ST. LOUIS)

On this 4 day of MAY, 2021, before me personally appeared Robert Drace, who, being duly sworn upon his oath, did state that the facts and matters aforesaid are true and correct to the best of his knowledge, information and belief.



Notary Public

My Commission Expires:



CERTIFICATE OF SERVICE

The undersigned hereby certifies that on MAY 4, 2021, a true and correct copy of Defendant, Robert C. Drace's Motion to Dismiss Adversary Complaint was filed electronically with the Clerk of the Court to be served upon all parties requesting notice, served via email to Stephen Coffin, Chapter 11 Trustee at scoffin52@gmail.com, Joseph Schlotzhauer, US Trustee at joseph.schlotzhauer@usdoj.gov, James Cole at jcole@wasingerdaming.com, Steven P. Kuenzel at steve@eckelkampkuenzel.com, Robert Fox at rfox@stlouis.com, Missouri Dept. of Revenue, JoAnne Talluer at joanne.talluer@mo.dor.gov, Criswell Casket Co., Thomas Adamczyk at tadamczyk@matz.com, MSD, Karen McDowell at kmcdow@stlmsd.com, Carmody MacDonald, PC, Thomas Riske at thr@carmodymacdoneld.com, Chase Card Member Services, David Levy, Robertson, Anshutz & Schneid, P.L. at chasepocnotification@rasflaw.com, Angela Redden-Jansen at amredden@swbell.net, and Ameren, Janie S. Hovis at jhovis2@ameren.com, Internal Revenue Service at sbse.cio.bnc.mail@irs.gov, and via first class mail, postage prepaid, to all parties listed below at the addresses designed:

Ameren UE

Bankruptcy Desk MC310
P. O. Box 66881
St. Louis, MO 63166

Batesville Casket Company
P. O. Box 644559
Pittsburgh, PA 15264-4559

Bernard and Patricia Elkin
4468 Forder Ridge Rd.
St. Louis, MO 63129

Citizens National Bank
c/o Steven T. Hart
7305 Manchester Rd.
St. Louis, MO 63143

Crescent Memorial
4975 West Main St.
Tupelo, MS 38801

Deborah L. Drace

7635 West Shore Drive
Egg Harbor, WI 54029

Deborah L. Drace
d/b/a Ambruster Great Hall Events
7635 West Shore Drive
Egg Harbor, WI 54029

Jeffrey Mize
7635 West Shore Drive
Egg Harbor, WI 54029

JP Morgan Chase
Robertson, Anschutz & Schneid, P.L.
6409 Congress Ave., Ste. 100
Boca Raton, FL 33487
JS Paluch Co., Inc.
P. O. Box 2703
Schiller Park, IL 60176

Criswell Casket Company
c/o Matthews International
2 North Shore Center
Pittsburgh, PA 15212

Missouri American Water
P. O. Box 578
Alton, IL 62002

Missouri Dept. of Labor & Ind. Rel.
P. O. Box 475
Jefferson City, MO 65105

Republic Service
P. O. Box 9001099
Louisville, KY 40290-1099

Thomas B. Hayes
11647 Gravois Rd., Ste. 100
St. Louis, MO 63126

LPI
P. O. Box 510817
New Berlin, WI 53151-0817

Sams Club MC/SYNCB
P. O. Box 960016
Orlando, FL 32896-0016

Spire
Drawer 2
St. Louis, MO 63171

The National Directory of Mortuaries
P. O. Box 73
Chagrin Falls, OH 44022-0073

Travelers Insurance
J Thomas Company, Inc.
800 Market St., Ste. 1655
St. Louis, MO 63101
